RECENT ENGLISH DECISIONS.

In the Court of Common Bench, Nov. 17, 1857.

TOONEY *vs.* THE LONDON, BRIGHTON AND SOUTH-COAST RAILWAY COMPANY.

The plaintiff mistook a door at a railway-station, and, passing through it instead of another, fell down a flight of steps and was hurt. There was a light over the door which he intended to pass through, and a printed notice showing the purpose of it. There was also an inscription over the other, but no light. The defendant could not read. There was no evidence that the steps were more than ordinarily dangerous; held that the railway company were not liable.

This action was tried at the last sittings at Westminster, before Cresswell J., who directed a nonsuit to be entered, with leave to the plaintiff to move to set aside the nonsuit, and enter a verdict for the defendants for £35. The declaration stated that the defendants were possessed of a railway station at New Cross; and it was their duty to keep it in a safe state, that they did not do so, and the plaintiff by reason thereof fell into a hole, and was hurt. It appeared at the trial that the plaintiff arrived at the railway station to go by the train which leaves at a quarter-past twelve at night. He inquired of a stranger on the platform the way to the urinary. He pointed towards a part of the platform where there were two doors. The one had the words "for gentlemen" over it; over the other were the words "lamp-room;" over the former there was a light, over the latter none. The plaintiff was an illiterate man, and passed through the door leading to the lamp-room. The door was on the swing, and as he entered, he fell down a flight of steps, and hurt his head. The plaintiff's son went to look at the steps a few days after, and found the door locked. The plaintiff said he was in a hurry, there was no light, and he could not see what was before him.

Pigott, Serjt., now moved for a rule in pursuance of the leave reserved. The defendants ought to have kept the door locked; the words over the doors could be of no use to the plaintiff, who was illiterate. There being no light over the door, any one might have mistaken the place, and been injured. [Williams J.—What was the

nature of the steps ?] We could give no further evidence of that, the door being locked when the son of the plaintiff went to examine them.

WILLIAMS J.—I think there should be no rule. Putting such a case to the jury is tantamount to a verdict for the plaintiff, and the question is whether there is evidence upon which a jury could properly act. If it had been shown that the steps had been dangerous, the case might have been different.

WILLES J.—I am of the same opinion. To make out a case of negligence, some fact must be proved more consistent with the defendants having, through negligence, caused the injury, than the opposite theory. There was nothing to show that the steps were more than ordinarily dangerous, nothing to show that they were out of the ordinary course. It is impossible for a man to dispose his property in such a way, but that a man may by accident or negligence injure himself. There is no evidence that an accident might not have been avoided by a man of ordinary prudence and care.

Cockburn, C. J. took no part in the case, he being a shareholder in the defendant's company.

Crowder, J. was not in court during the argument.

Rule refused.

NOTICES OF NEW BOOKS.

A PRACTICAL TREATISE UPON THE LAW OF RAILWAYS. By ISAAC F. REDFIELD, LL. D., Chief Justice of Vermont. Boston: Little, Brown & Co., 1858, pp. 736.

"This work," says the author, in his preface, "was undertaken with the purpose of supplying, what seemed to the author, a want, if not a necessity to the profession in this country, a book upon the law of railways, which should present within reasonable compass, and in a properly digested form, the whole law upon the subject, both English and American. No treatise had attempted this, and the attempt has confirmed the consciousness that the accomplishment of such an undertaking is attended with labor and perplexity."